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10/766,517	01/28/2004	Andrew H. Robbins	30074-003001	2227
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EXAMINER				
STIBLEY, MICHAEL R				
ART UNIT		PAPER NUMBER		
3688				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@ORTPATENT.COM

### Office Action Summary

**Application No.**

10/766,517

**Applicant(s)**

ROBBINS ET AL

**Examiner**

MICHAEL STIBLEY

**Art Unit**

3688

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/9/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10-14, 18-22, 24-29 and 32-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 18-22, 24-29 and 32-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is in response to the remarks and Rule 131 declaration filed on 3/9/2010.

**CLAIM STATUS**

2. Claims 1-8, 10-14, 18-22, 24-29 and 32-56 are currently pending in the instant application and have been examined.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 42 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by Mark E. Toth (TOTH)(US 2003/0078793 A1).**

**As per Claim 42: TOTH** teaches: A system comprising:

a restaurant point-of-sale (POS) terminal installed at a restaurant comprising

See at least [0031] See also [0013]; [0064]

a POS database having information about menu items and modifiers or condiments associated with the menu items,

See at least [0076]; [0074] See also Figs 2 and 3 elements 215 and 210

a first user interface to enable an operator to store a restaurant order of a customer in an account associated with the customer, the stored restaurant order including specific menu items and modifiers or condiments associated the specific menu items;

See at least Fig 9 element 905; see also Fig 3 element 210; See also [0071]; [0074]; [0094] See also [0101]; [0067]; [0112]

a second user interface to enable the operator to retrieve a stored restaurant order from the account associated with the customer, in which the retrieved restaurant order includes specific menu items and modifiers or condiments associated the specific menu items.

See at least Fig 9 element 905; see also Fig 3 element 210; See also [0071]; [0074]; [0094] See also [0101]; [0067]; [0112]

**As per Claim 43: TOTH** teaches: The system of claim 42 in which the stored restaurant order retrieved by the second user interface was entered into the account through a second restaurant POS terminal, the first and second POS terminals belonging to different restaurants. See at least [0019] See also Fig 9 element 905; see also Fig 3 element 210; See also [0071]; [0074]; [0094] See also [0101]; [0067]; [0112]

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3, 5, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 24, 25, 26, 29, 41, 44-52 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis Keith Greer et al (**GREER**)(United States Patent 5,969,316) in view of Matthew A. D'Arbeloff (**D'ARBELOFF**)(US 2003/0009382 A1).

As per Claim 1: **GREER** teaches: A computer implemented method of buying, storing, and redeeming products, comprising:

"...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..." Col 3 lines 3-10 see also abstract

receiving, from a first terminal, information indicating that one or more physical products have been pre-paid;

"...these systems are typically used at schools or universities to allow students to purchase various meal plans to suit their specific eating habits or requirements..." Col 2 lines 25-30 where a meal is a physical product

receiving, from the first terminal, information indicating that a payment specific to the one or more pre-paid physical products has been made;

"...Memory storage area contains information regarding the maximum number of meals of any type that the smart card can allow a user to purchase during a week..." Col 2 lines 45-50; See also Col 3 lines 3-10 where a meal is a physical product

receiving, from the first terminal;

“...the plan code consists of a number between 0 and 63 representing the specific food plan paid by the smart card user...” Col 2 lines 39-41 See also “...memory chip (unique identifier)...” Col 2 lines 33-35

adding, by a computer, the one or more pre-paid physical products to an account associated with the physical card;

See at least abstract; see also Col 3 lines 3-10; where a meal is a physical product

storing the account information in a central database;

See at least Col 2 lines 14-15; See also Col 2 lines 33-50; See also Col 3 lines 1-17

receiving from the first terminal or a second terminal a request to redeem one of the pre-paid physical products

See at least “...If the meal is vended in block 68, the smart card has its meal time quota, daily quota and/or weekly quota decremented appropriately in block 70...” Col 4 lines 33-37; See also abstract where a meal is a physical product

verifying, by the computer that the pre-paid product in the request matches one of the one or more pre-paid products in the account;

See at least “queried” Col 2 lines 1-7; See also Col 2 lines 50-55; Col 1 lines 60-65; Col 4 lines 22-32 where a meal is a physical product

and sending approval of redemption of the pre-paid physical product to enable a user to redeem the pre-paid physical product at the first or second terminal without an additional payment or deduction of a monetary amount stored in the physical card.

Col 4 lines 33-37; see also vended Col 4 lines 22-32 where a meal is a physical product

In general, GREER teaches a system and method for using a smart card for automated meal plans

Although GREER teaches a system and method for using a smart card for automated meal plans, nevertheless, GREER does not expressly disclose receiving from the first terminal or a second terminal a unique identifier that is used to identify a physical card or verifying by the computer that the unique identifier received with the request matches the unique identifier used to identify the physical card

HOWEVER, D'ARBELOFF does teach disclose receiving from the first terminal or a second terminal a unique identifier that is used to identify a physical card or verifying by the computer that the unique identifier received with the request matches the unique identifier used to identify the physical card

(See at least D'ARBELOFF "...the identification and authorization stage matches the identification number with the identification number taken from the payment device to confirm the buyer's identity..." [0053] [0054][0055] See also "...a loyalty card given to the buyer usually has the merchants name printed on the card and a unique account number stored on the card..." [0060] [0061][0064]

THEREFORE, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the unique identification number and verification teachings of D'ARBELOFF with GREER so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on



prepayment **thereby** allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption based on a card's unique physical identifier as unique card identifiers assist in record keeping.

**As per Claim 3: GREER and D'ARBELOFF** teach: The method of claim 1 **D'ARBELOFF** further discloses in which the one or more products comprise a product associated with a specific stock keeping unit (SKU). See at least [0027] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to provide specific identification of the meals or products redeemed via stock keeping units as SKUS allow for convenient and immediate identification of products..

**As per Claim 5: GREER and D'ARBELOFF** teach: The method of claim 1 **D'ARBELOFF** further discloses: in which at least one of the pre-paid products is associated with a family of SKU items. "...SKU..." [0027][0028] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to provide quick and convenient identification of products utilizing SKU numbers.

**As per Claim 10: GREER and D'ARBELOFF** teach: The method of claim 1, **GREER** further discloses further comprising sending to the second terminal a message showing the pre-paid products in the account.

Col 3 lines 3-10; Col 3 lines 30-35; Col 4 lines 15-16

**As per Claim 11: GREER and D'ARBELOFF** teach: The method of claim 1, **GREER** further discloses: further comprising selecting, by the computer, one or more of the pre-paid products in the account based on rules that specify which pre-paid products are redeemable at the time and the location of the second point-of-sale, and sending to the second point-of-sale terminal a message specifying the selected one or more pre-paid products that are redeemable.

Col 2 lines 45-50; Col 4 lines 30-37; Col 3 lines 30-35

**As per Claim 12: GREER and D'ARBELOFF** teach: The method of claim 1, **D'ARBELOFF** further discloses: further comprising adding by the computer, a pre-paid dollar discount of an item to the account. See at least [0002], [0017], [0060] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to give incentives to customers to encourage their continued support of the business.

**As per Claim 13: GREER and D'ARBELOFF** teach: The method of claim 1, **D'ARBELOFF** further discloses further comprising adding by the computer, a pre-paid dollar discount of a plurality of items to the account. See at least [0002], [0017], [0060] It would have been obvious

to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to give incentives to customers to encourage their continued support of the business.

**As per Claim 14: GREER and D'ARBELOFF** teach: The method of claim 1, **D'ARBELOFF** further discloses: further comprising adding by the computer, a pre-paid percentage discount of an item or a plurality of items to the account. See at least [0002], [0017], [0060] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to give incentives to customers to encourage their continued support of the business.

**As per Claim 18: GREER and D'ARBELOFF** teach: The method of claim 1, **GREER** further discloses further comprising receiving messages indicating that the one or more pre-paid products have been added to a check, performing, by the computer, a check-level reconciliation, and automatically removing any products that have been added to the check but had not actually been paid for See at least Col 4 lines 1-37

**As per Claim 19: GREER and D'ARBELOFF** teach: The method of claim 1 **GREER** further discloses in which the first terminal comprises a point-of-sale (POS) terminal.

Col 1 lines 49-53; Col 3 lines 20-25

**As per Claim 20: GREER and D'ARBELOFF** teach: The method of claim 1 GREER further discloses in which the first terminal comprises a remote network terminal.

Col 1 lines 49-53; Col 3 lines 20-25

**As per Claim 21: GREER and D'ARBELOFF** teach: The method of claim 1 GREER further discloses in which the first terminal comprises a kiosk.

Col 1 lines 49-53; Col 3 lines 20-25

**As per Claim 22: GREER and D'ARBELOFF** teach: The method of claim 1 D'ARBELOFF further discloses: in which the unique identifier comprises a unique identifier of a loyalty card. See at least [0053];[0054][0055];[0060][0061][0064] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of D'ARBELOFF with GREER in order to provide a unique identification number to the cards used by the students, customers or patrons so as to allow the system to easily track and identify customer transactions associated with the cards whether they are smart cards, payment cards or loyalty cards.

**As per Claim 24: GREER and D'ARBELOFF** teach: The method of claim 1 D'ARBELOFF further discloses: in which the unique identifier comprises a unique identifier of a payment card. See at least [0053];[0054][0055];[0060][0061][0064] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of D'ARBELOFF with GREER in order to provide a unique identification number to the cards

used by the students, customers or patrons so as to allow the system to easily track and identify customer transactions associated with the cards whether they are smart cards, payment cards or loyalty cards.

**As per Claim 25: GREER and D'ARBELOFF** teach: The method of claim 1 **D'ARBELOFF** further discloses: in which the unique identifier comprises a unique identifier of a smart card. See at least [0053];[0054][0055];[0060][0061][0064] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to provide a unique identification number to the cards used by the students, customers or patrons so as to allow the system to easily track and identify customer transactions associated with the cards whether they are smart cards, payment cards or loyalty cards.

**As per Claim 26: GREER** teaches: A system comprising a first point-of-sale (POS) terminal comprising

Col 1 lines 49-53 See also "...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..."  
Col 3 lines 3-10

a first POS database having information about physical products that are available for purchase or redemption at the first POS terminal,

Col 3 lines 18-23 See also Col 3 lines 3-10 where a meal is a physical product

a first user interface to enable a seller to enter information indicating that one or more physical products have been pre-paid and send messages to a central server to store information about the one or more physical products in an account associated with a physical card, the message indicating that a payment specific to the one or more pre-paid products has been made by a customer

Col 3 lines 45-55 See also Col 3 lines 1-17 where a meal is a physical product

and a second user interface to receive messages from the central server indicating one or more pre-paid physical products in the account that are redeemable by a customer providing the card and enabling the customer to redeem one of the pre-paid products without an additional payment or deduction of a monetary amount from the physical card.

Col 3 lines 49-55 See also Col 3 lines 1-17; See also "...reader..." Col 3 lines 18-30 where a meal is a physical product See also Col 4 lines 33-37; see also vended Col 4 lines 22-32 where a meal is a physical product

In general, GREER teaches a system and method for using a smart card for automated meal plans

Although GREER teaches a system and method for using a smart card for automated meal plans, nevertheless, GREER does not expressly disclose a unique identifier that is used to identify a physical card

**HOWEVER, D'ARBELOFF** does teach disclose a unique identifier that is used to identify a physical card

(See at least **D'ARBELOFF** "...the identification and authorization stage matches the identification number with the identification number taken from the payment device to confirm the buyer's identity..." [0053] [0054][0055] See also "...a loyalty card given to the buyer usually has the merchants name printed on the card and a unique account number stored on the card..." [0060] [0061][0064]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the unique identification number and verification teachings of **D'ARBELOFF** with **GREER** so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on prepayment **thereby** allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption based on a card's unique physical identifier as unique card identifiers assist in record keeping.

As per **Claim 29: GREER and D'ARBELOFF** teach: The system of claim 26 **D'ARBELOFF** further discloses: in which the POS database comprises real-time rules for adding rewards to or removing rewards from the account based on conditions at the time of transaction. [0017];

[0060]; [0063]; [0064] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of D'ARBELOFF with GREER in order to provide customers with incentives to make purchases to and to continue dining at the restaurant by offering promotions such as rewards and discounts.

**As per Claim 41:** GREER teaches: A computer implemented method of processing a customer order at a restaurant, the method comprising:

"...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..." Col 3 lines 3-10

See also Col 1 lines 5-8;

receiving, from a first restaurant point-of-sale terminal, information about a customer's order, and information indicating that a payment specific to the customer's order has been made;

"...Memory storage area contains information regarding the maximum number of meals of any type that the smart card can allow a user to purchase during a week..." Col 2 lines 45-50; See also Col 3 lines 1-17 where a meal is the customer's order and where the customer's meals are prepaid as per the plan code which is indicated by the smart card See also Col 1 lines 5-8;



storing, by a computer, in an account associated with the card information about the customer's order;

See at least Col 2 lines 14-15; See also Col 2 lines 33-50; See also Col 3 lines 1-17

receiving, from a second restaurant point-of-sale terminal, and a request to retrieve the stored order; and

See at least "...If the meal is vended in block 68, the smart card has its meal time quota, daily quota and/or weekly quota decremented appropriately in block 70..." Col 4 lines 33-37; See also abstract where a meal is a physical product See also Col 3 lines 20-25; see also abstract

providing the stored order to the second restaurant point-of-sale terminal without an additional payment of deduction of a monetary amount from the physical card.

See at least abstract; Col 4 lines 33-37; see also vended Col 4 lines 22-32 where a meal is a stored order

**In general, GREER** teaches a system and method for using a smart card for automated meal plans

**Although GREER** teaches a system and method for using a smart card for automated meal plans, **nevertheless, GREER** does not expressly disclose an identifier associated with a physical card

**HOWEVER, D'ARBELOFF** does teach disclose an identifier associated with a physical card

(See at least **D'ARBELOFF** "...the identification and authorization stage matches the identification number with the identification number taken from the payment device to confirm

the buyer's identity..." [0053] [0054][0055] See also "...a loyalty card given to the buyer usually has the merchants name printed on the card and a unique account number stored on the card..." [0060] [0061][0064]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the an identifier associated with a physical card of **D'ARBELOFF** with **GREER** so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on prepayment **thereby** allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption based on a card's unique physical identifier as unique card identifiers assist in record keeping.

**As per Claim 44: GREER** teaches: A computer implemented method of operating a stored product card, comprising:

"...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..." Col 3 lines 3-10  
See also Col 1 lines 5-8;

receiving, information indicating that one or more physical products have been pre-paid, and information indicating that a payment specific to the one or more pre-paid physical products has been made;

“...these systems are typically used at schools or universities to allow students to purchase various meal plans to suit their specific eating habits or requirements...” Col 2 lines 25-30 where a meal is a physical product see also abstract

receiving a request to add the one or more pre-paid physical products to an account associated with the physical card;

see at least Col 3 lines 3-10; See also Col 1 lines 5-8; see also abstract

receiving a request to redeem a second physical product;

see Fig 2 element 24; Col 3 lines 15-30 see also See at least “...If the meal is vended in block 68, the smart card has its meal time quota, daily quota and/or weekly quota decremented appropriately in block 70...” Col 4 lines 33-37; See also abstract where a meal is a physical product

verifying, by a computer, that the second physical product matches one of the one or more pre-paid physical products in the account;

see Fig 2 element 24; Col 3 lines 15-30 see also See at least “queried” Col 2 lines 1-7; See also Col 2 lines 50-55; Col 1 lines 60-65; Col 4 lines 22-32 where a meal is a physical product

and sending approval of redemption of the second physical product to enable a user to redeem the second physical product without an additional payment or deduction of a monetary amount from the physical card.

Col 4 lines 33-37; see also vended Col 4 lines 22-32 where a meal is a physical product See also Fig 2 element 24

In general, GREER teaches a system and method for using a smart card for automated meal plans

Although GREER teaches a system and method for using a smart card for automated meal plans, nevertheless, GREER does not expressly disclose a unique identifier that is used to identify a physical card

HOWEVER, D'ARBELOFF does teach disclose a unique identifier that is used to identify a physical card

(See at least D'ARBELOFF "...the identification and authorization stage matches the identification number with the identification number taken from the payment device to confirm the buyer's identity..." [0053] [0054][0055] See also "...a loyalty card given to the buyer usually has the merchants name printed on the card and a unique account number stored on the card..." [0060] [0061][0064]

THEREFORE, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the unique identification number and verification teachings of D'ARBELOFF with GREER so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on prepayment thereby allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry

about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption based on a card's unique physical identifier as unique card identifiers assist in record keeping.

**As per Claim 45: GREER and D'ARBELOFF** teach: The method of claim 44 **GREER** further discloses: in which the request to add the one or more pre-paid products to the account is sent from a point-of-sale terminal. See at least Col 3 lines 3-10 see also abstract

**As per Claim 46: GREER and D'ARBELOFF** teaches: The method of claim 1, **GREER** further discloses: further comprising transferring money from a first legal entity that owns the first terminal to a second legal entity that owns the second terminal based on a preset value for each type of pre-paid item when the second unique identifier and the request to redeem the second product are received by the second terminal, wherein the first and second legal entities are two different legal entities of a franchised organization. See at least Col 3 lines 3-10 see also abstract

**As per Claim 47: GREER and D'ARBELOFF** teaches: The method of claim 1, **GREER** further discloses: further comprising transferring money from a first legal entity that owns the first terminal to a second legal entity that owns the second terminal based on an actual value or a percentage of the actual value of the redeemed product when the second unique identifier and the request to redeem the second product are received by the second terminal, wherein the first and second legal entities are two different legal entities of a franchised organization. See at least Col 3 lines 3-10 see also abstract

**As per Claim 48: GREER and D'ARBELOFF** teaches: The method of claim 1, **GREER** further discloses: further comprising receiving messages indicating that the one or more pre-paid products have been added to a check, and performing a check-level reconciliation to confirm that the pre-paid products added to the check have actually been paid. See at least Col 3 lines 3-10 see also abstract

**As per Claim 49: GREER and D'ARBELOFF** teaches: The method of claim 1 **GREER** further discloses: in which the first terminal comprises a first point- of-sale terminal having access to a first point-of-sale database having information about products that are available for purchase or redemption at the first point-of-sale terminal, the second terminal comprises a second point-of-sale terminal having access to a second point-of-sale database having information about products that are available for purchase or redemption at the second point-of-sale terminal, the first point-of-sale terminal does not have access to the second point-of-sale database, and the second point-of-sale terminal does not have access to the first point-of-sale database. See at least Col 3 lines 3-10 see also abstract

**As per Claim 50: GREER and D'ARBELOFF** teaches: The method of claim 1 **GREER** further discloses: in which the first terminal comprises a first point- of-sale terminal having access to a first point-of-sale database having information about products that are available for purchase or redemption at the first point-of-sale terminal, the second terminal comprises a second point-of-sale terminal having access to a second point-of-sale database having information about products that are available for purchase or redemption at the second point-of-sale terminal, and at least some of the products that are available for redemption at the second

point-of-sale terminal are different from the products that are available for purchase at the first point-of-sale terminal. See at least Col 3 lines 3-10 see also abstract

**As per Claim 51: GREER and D'ARBELOFF** teaches: The system of claim 26 **GREER** further discloses: in which the first POS terminal enables the customer to redeem a pre-paid product that was added to the account from a second POS terminal comprising a second POS database having information about products that are available for purchase or redemption at the second POS terminal.

See at least Col 3 lines 3-10 see also abstract

**As per Claim 52: GREER and D'ARBELOFF** teaches: The system of claim 51 **GREER** further discloses: in which some products listed in the second POS database are not listed in the first POS database.

See at least Col 3 lines 3-10 see also abstract

7. Claims 2, 4, 6, 7, 8, 27, 28, 32, 33, 34, 35, 36, 53, 54, 55 and 56 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis Keith Greer et al (**GREER**)(United States Patent 5,969,316) in view of Matthew A. D'Arbeloff (**D'ARBELOFF**)(US 2003/0009382 A1), further in view of Mark E. Toth (**TOTH**)(US 2003/0078793 A1)

**As per Claim 2: GREER and D'ARBELOFF** teach: The method of claim 1 in which the one or more products comprise a specific item of a restaurant menu. Neither **GREER** and **D'ARBELOFF** teach in which one or more products comprise a specific item of a restaurant

menu, however TOTH discloses one or more products comprise a specific item of a restaurant menu. See at least [0074]; Fig 2 elem 215,210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claim 4: GREER and D'ARBELOFF** teach: The method of claim 1 in which at least one of the pre-paid products comprises a family of items of a restaurant menu. Neither GREER and D'ARBELOFF teach in which one or more products comprises a family of items of a restaurant menu, however TOTH discloses one or more products comprises a family of items of a restaurant menu. See at least [0074]; Fig 2 elem 215,210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claim 6: GREER and D'ARBELOFF** teaches: The method of claim 1 in which at least one of the pre-paid products comprises a category of products. Neither GREER nor D'ARBELOFF teach category of products, however TOTH discloses category of products. See at least [0074]; Fig 2 elem 215,210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.



**As per Claim 7: GREER, D'ARBELOFF and TOTH** teach: The method of claim 6 in which the category of products comprise a plurality of families of products. **TOTH** further discloses plurality of families of products. See at least [0074]; Fig 2 elem 215,210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **TOTH** with **GREER** in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claim 8: GREER, D'ARBELOFF and TOTH** teach: The method of claim 6 **D'ARBELOFF** further discloses in which the category of products comprise a plurality of SKU items. "...SKU..." [0027][0028] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** in order to provide quick and convenient identification of products utilizing SKU numbers.

**As per Claim 27: GREER and D'ARBELOFF** teaches: The system of claim 26 Neither **GREER nor D'ARBELOFF** teach in which the POS terminal comprises rules for selecting one of a plurality of products in the POS database that corresponds to a pre-paid product in the account when the pre-paid product represents a product category that corresponds to more than one product in the POS database. However **TOTH** further discloses: in which the POS terminal comprises rules for selecting one of a plurality of products in the POS database that corresponds to a pre-paid product in the account when the pre-paid product represents a product category that corresponds to more than one product in the POS database. See at least [0074]; Fig 2 elem 215,210 [0022] It would have been obvious to a person having ordinary skill in the art at

the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently

**As per Claim 28: GREER, D'ARBELOFF and TOTH** teach: The system of claim 27 TOTH further discloses: in which the pre-paid product comprises an entree that corresponds to a plurality of items in a restaurant menu in the POS database. See at least [0074]; Fig 2 clem 215,210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently

**As per Claim 32: GREER** teaches: A computer implemented method of buying, storing, and redeeming physical products, comprising:

“...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information...” Col 3 lines 3-10

receiving information indicating that a first physical product has been pre-paid, the first physical product representing a family of specific physical products;

“...these systems are typically used at schools or universities to allow students to purchase various meal plans to suit their specific eating habits or requirements...” Col 2 lines 25-30  
where a meal is a physical product representing a family of specific physical products

adding, by a computer, the first physical product to an account;

See at least abstract; see also Col 3 lines 3-10; where a meal is a physical product

receiving a request to redeem a physical product;

See at least "...If the meal is vended in block 68, the smart card has its meal time quota, daily quota and/or weekly quota decremented appropriately in block 70..." Col 4 lines 33-37; See also abstract where a meal is a physical product

processing, by the computer, the request to redeem the physical product using a set of rules;

See at least "...If the meal is vended in block 68, the smart card has its meal time quota, daily quota and/or weekly quota decremented appropriately in block 70..." Col 4 lines 33-37; See also abstract where a meal is a physical product

and sending approval of redemption of the physical product.

Col 4 lines 33-37; see also vended Col 4 lines 22-32 where a meal is a physical product

**In general, GREER** teaches a system and method for using a smart card for automated meal plans

**Although GREER** teaches a system and method for using a smart card for automated meal plans, **nevertheless, GREER** does not expressly disclose receiving a unique identifier that is used to identify a physical card/account or verifying by the computer that the unique identifier received with the request matches the unique identifier used to identify the physical card/account

**HOWEVER, D'ARBELOFF** does teach disclose receiving from the first terminal or a second terminal a unique identifier that is used to identify a physical card/account or verifying by the computer that the unique identifier received with the request matches the unique identifier used to identify the physical card/account

(See at least D'ARBELOFF "...the identification and authorization stage matches the identification number with the identification number taken from the payment device to confirm the buyer's identity..." [0053] [0054][0055] See also "...a loyalty card given to the buyer usually has the merchants name printed on the card and a unique account number stored on the card..." [0060] [0061][0064]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the unique identification number and verification teachings of D'ARBELOFF with GREER so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on prepayment **thereby** allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption.

In general, GREER teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of physical products

Although GREER teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of physical products **nevertheless**, GREER does not expressly disclose a second physical product

that is among the family of specific physical products represented by the first physical product or verify that the second physical product is within the family of specific physical products represented by the first physical product

**HOWEVER, TOTH** does teach a second physical product that is verified to be among the family of specific physical products represented by the first physical product

(See at least **TOTH** "...by pressing the "entrees" section button, a list of entrees appears in the information region of the screen. Once a customer selects one of the entrees, the information region is also used to display photographs, nutritional information, descriptive text and the like..." [0074] See also Figure 2 elements 215, 210 See also "...computerized dining system which guides the user through the ordering process in a logical manner which leaves the diner with a feeling that the order has been properly entered and received by the restaurant staff..." [0022]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the selecting an entrée from a list of entrees teachings of **TOTH** with **GREER** so as to provide a system and method where items of a category are prepaid for in a restaurant or cafeteria setting **in order to** allow convenience to students or patrons from having to provide the correct amount of change for specific food items ordered as part of a meal served at a restaurant or cafeteria and to further allow customers or students to select the components of their meal from a variety of options that may be classified as part of a larger classification such as different entrees, appetizers, or desserts.

**As per Claim 33:** GREER, D'ARBELOFF and TOTH teach: The method of claim 32 TOTH further discloses: in which the first product comprises a food category that comprises a family of specific food products. See at least [0074], fig 2 elem 215, 210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claim 34:** GREER, D'ARBELOFF and TOTH teach: The method of claim 32 TOTH further discloses: in which the first product comprises a category of restaurant menu items that comprise a plurality of specific restaurant menu items. See at least [0074], fig 2 elem 215, 210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claim 35:** GREER, D'ARBELOFF and TOTH teach: The method of claim 34 TOTH further discloses: in which the request to redeem the second product originates from a point-of-sale terminal at a restaurant. See at least [0074], fig 2 elem 215, 210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claim 36:** GREER, D'ARBELOFF and TOTH teach: The method of claim 32 TOTH further discloses: in which the set of rules is specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made. See at least [0074], fig 2 elem 215, 210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of TOTH with GREER in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently.

**As per Claims 53 and 55:** GREER teaches: A computer implemented method of buying, storing, and redeeming products, comprising:

"...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..." Col 3 lines 3-10 See also abstract

receiving, from a first terminal information indicating that one or more products have been pre-paid,

"...these systems are typically used at schools or universities to allow students to purchase various meal plans to suit their specific eating habits or requirements..." Col 2 lines 25-30 where a meal is a physical product

storing, by a computer, information about the one or more pre-paid products in a central database;

See at least Col 2 lines 14-15; See also Col 2 lines 33-50; See also Col 3 lines 1-17

receiving from a second terminal a request to redeem a specific product;

“...these systems are typically used at schools or universities to allow students to purchase various meal plans to suit their specific eating habits or requirements...” Col 2 lines 25-30 where a meal is a physical product See at least “...If the meal is vended in block 68, the smart card has its meal time quota, daily quota and/or weekly quota decremented appropriately in block 70...” Col 4 lines 33-37; See also abstract where a meal is a physical product

verifying, by the computer, that the specific product matches one of sub-members of the pre-paid products;

See at least “queried” Col 2 lines 1-7; See also Col 2 lines 50-55; Col 1 lines 60-65; Col 4 lines 22-32 where a meal is a physical product

and sending approval of redemption of the specific product to enable a customer to redeem the specific product at the second terminal, in which the specific product being redeemed is more specific than the pre-paid product.

Col 4 lines 33-37; see also vended Col 4 lines 22-32 where a meal is a physical product

**In general, GREER teaches a system and method for using a smart card for automated meal plans**



Although GREER teaches a system and method for using a smart card for automated meal plans, **nevertheless**, GREER does not expressly disclose a plurality of stock keeping unit (SKU) items, a family of SKU items

**HOWEVER**, D'ARBELOFF does teach disclose a plurality of stock keeping unit (SKU) items, a family of SKU items (See at least D'ARBELOFF "...SKU..." [0027][0028]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of D'ARBELOFF with GREER so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on prepayment in which SKU numbers are utilized for identification purposes **thereby** allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption while utilizing trackable numbers such as SKU's as SKUs allow for convenient identification of products.

**In general**, GREER teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of physical products

Although GREER teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of

physical products **nevertheless**, **GREER** does not expressly disclose the one or more products comprising a product corresponding to at least one of a family of items of a restaurant menu, a category of products, or a plurality of families of products **HOWEVER**, **TOTH** does teach a the one or more products comprising a product corresponding to at least one of a family of items of a restaurant menu, , a category of products, or a plurality of families of products (See at least **TOTH** "...by pressing the "entrees" section button, a list of entrees appears in the information region of the screen. Once a customer selects one of the entrees, the information region is also used to display photographs, nutritional information, descriptive text and the like..." [0074] See also Figure 2 elements 215, 210 See also "...computerized dining system which guides the user through the ordering process in a logical manner which leaves the diner with a feeling that the order has been properly entered and received by the restaurant staff..." [0022]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the selecting an entrée from a list of entrees teachings of **TOTH** with **GREER** so as to provide a system and method where items of a category are prepaid for in a restaurant or cafeteria setting **in order to** allow convenience to students or patrons from having to provide the correct amount of change for specific food items ordered as part of a meal served at a restaurant or cafeteria and to further allow customers or students to select the components of their meal from a variety of options that may be classified as part of a larger classification such as different entrees, appetizers, or desserts.

As per **Claims 54 and 56**: **GREER** teaches: A method of buying, storing, and redeeming products, comprising:

"...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..." Col 3 lines 3-10 see also abstract

receiving from a plurality of point-of-sale (POS) terminals information regarding pre-paid products that were paid by customers,

"...these systems are typically used at schools or universities to allow students to purchase various meal plans to suit their specific eating habits or requirements..." Col 2 lines 25-30 where a meal is a physical product

storing, by a computer, information about the pre-paid products in accounts to enable later redemption of the pre-paid products,

See at least Col 2 lines 14-15; See also Col 2 lines 33-50; See also Col 3 lines 1-17

**In general, GREER** teaches a system and method for using a smart card for automated meal plans

**Although GREER** teaches a system and method for using a smart card for automated meal plans, **nevertheless, GREER** does not expressly disclose associated with identifiers designated by the customers , a plurality of SKU items, a family of SKU items, one of the plurality of SKU items, one of the family of SKU items

**HOWEVER, D'ARBELOFF** does teach disclose associated with identifiers designated by the customers , a plurality of SKU items, a family of SKU items, one of the plurality of SKU items, one of the family of SKU items

(See at least **D'ARBELOFF** "...SKU..." [0027][0028] see also "...PIN..." [0019][0064][0054]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **D'ARBELOFF** with **GREER** so as to provide a system and method for providing cards with unique identification numbers, a verification process, and the cards storing information regarding what types of products or meals the user is eligible to receive based on prepayment in which SKU numbers are utilized for identification purposes as well as PIN for security **thereby** allowing for businesses, such as university cafeterias, restaurants or the like to allow its students or patrons to pre-purchase meals, entrees, or other products in advance in order to conveniently provide meal services without the students or patrons having to worry about having the appropriate amount of available cash for every meal event as well as assisting the university or restaurant to keep track of the prepaid meals and their corresponding redemption while utilizing trackable numbers such as SKU's as SKU tracking allows for convenient identification of products.

**In general, GREER** teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of physical products

**Although GREER** teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of

physical products **nevertheless**, **GREER** does not expressly disclose the each POS terminal having access to a corresponding POS database having information about products that are available for purchase or redemption at the POS terminal, some of the products each corresponding to at least one of a family of items of a restaurant menu, a category of products, or a plurality of families of products;

and enabling redemption of one of the family of items of the restaurant menu, , one of the category of products, or one of the plurality of families of products **HOWEVER**, **TOTH** does teach a the one or more products comprising a product corresponding to at least one of a family of items of a restaurant menu, , a category of products, or a plurality of families of products (See at least **TOTH** "...by pressing the "entrees" section button, a list of entrees appears in the information region of the screen. Once a customer selects one of the entrees, the information region is also used to display photographs, nutritional information, descriptive text and the like..." [0074] See also Figure 2 elements 215, 210 See also "...computerized dining system which guides the user through the ordering process in a logical manner which leaves the diner with a feeling that the order has been properly entered and received by the restaurant staff..." [0022] see also [0031]; [0115])

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **TOTH** with **GREER** in order to allow convenience to students or patrons from having to provide the correct amount of change for specific food items ordered as part of a meal served at a restaurant or cafeteria and to further allow customers or students to select the components of their meal from a variety of options that

may be classified as part of a larger classification such as different entrees, appetizers, or desserts and to pay or redeem such items utilizing a computer.

**8. Claims 37-40, are rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis Keith Greer et al (GREER)(United States Patent 5,969,316) in view of Mark E. Toth (TOTH)(US 2003/0078793 A1).**

**As per Claim 37: GREER** teaches: A system comprising: a point-of-sale (POS) terminal comprising a user interface to enable a customer to redeem physical products in an account of the customer,

Col 1 lines 49-53 See also "...the administrative software running on the personal computer configures the smart cards with security features and assigns a specific meal plan...the administrative software loads the smart cards with meal plan information, tracks deployed terminals and merchant information, supports the collection of meal plan transactions, configures terminal devices, and provides reports and analysis of collected information..."

Col 3 lines 3-10; See also Col 3 lines 18-23

a POS database having information about a plurality of physical products that are available for redemption at the POS terminal, and rules about selecting a physical product from the plurality of physical products in response to a request to redeem a first physical product in the account that corresponds to a plurality of specific physical products in the POS database,

See at least Col 1 lines 49-60; See also Col 3 lines 3-10 See also Col 3 lines 18-23; See also Col 4 lines 13-37 where the rules are the checks to see if weekly quotas or daily quotas are exhausted and where plurality of physical products are the quota of meals for the day, week etc.

and a processor to select a specific physical product from among the plurality of specific physical products in the POS database for redemption according to the rules,

See at least Col 1 lines 49-60; See also Col 3 lines 3-10 See also Col 3 lines 18-23; See also Col 4 lines 13-37 where the rules are the checks to see if weekly quotas or daily quotas are exhausted and where plurality of physical products are the quota of meals for the day, week etc. See also Col 3 line 65- Col 4 line 8; See also Col 1 lines 10-12

**In general, GREER** teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of physical products

**Although GREER** teaches a system and method for using a smart card for automated meal plans where meals are vended and represent a physical product with associated family of physical products **nevertheless, GREER** does not expressly disclose the specific physical product selected by the processor is more specific than the first physical product in the request for redemption

**HOWEVER, TOTH** does teach the specific physical product selected by the processor is more specific than the first physical product in the request for redemption

(See at least TOTH "...by pressing the "entrees" section button, a list of entrees appears in the information region of the screen. Once a customer selects one of the entrees, the information region is also used to display photographs, nutritional information, descriptive text and the like..." [0074] See also Figure 2 elements 215, 210 See also "...computerized dining system which guides the user through the ordering process in a logical manner which leaves the

diner with a feeling that the order has been properly entered and received by the restaurant staff..." [0022]

**THEREFORE**, it would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the selecting an entrée from a list of entrees teachings of **TOTH** with **GREER** so as to provide a system and method where items of a category are prepaid for in a restaurant or cafeteria setting **in order to** allow convenience to students or patrons from having to provide the correct amount of change for specific food items ordered as part of a meal served at a restaurant or cafeteria and to further allow customers or students to select the components of their meal from a variety of options that may be classified as part of a larger classification such as different entrees, appetizers, or desserts.

**As per Claim 38: GREER and TOTH** teach: The system of claim 37 **TOTH** further discloses: in which the first product comprises a food category that corresponds to a family of specific food products. See at least [0074], fig 2 elem 215, 210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **TOTH** with **GREER** in order to provide menu selections to its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently

**As per Claim 39: GREER and TOTH** teach: The system of claim 37 **TOTH** further discloses: in which the first product comprises a category of restaurant menu items that correspond to a plurality of specific restaurant menu items. See at least [0074], fig 2 elem 215, 210 [0022] It would have been obvious to a person having ordinary skill in the art at the time of the invention to have combined the teachings of **TOTH** with **GREER** in order to provide menu selections to



its customers so as to expedite processing of orders and to allow for patrons to obtain their meals more efficiently

**As per Claim 40: GREER and TOTH** teach: The system of claim 37 **GREER** further discloses: in which the rules are specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made. See at least Col 4 lines 13-21

**Response to Declaration under Rule 1.131**

9. In response to the Office Action dated 11/09/2009, Applicant submitted remarks and a rule 131 Affidavit on 3/9/2010.

As to Applicant's declaration filed under Rule 1.131, Applicant declares that prior to January 9, 2003, in the United States, he conceived and reduced to practice, a computer-implemented system for storing information representing pre-paid physical products on physical cards. The statements in the affidavit amount to mere assertions and do not have factual support. Applicant has made a Rule 1.131 declaration in an attempt to antedate the D'Arbeloff et al reference (US 2003/0009382 A1) which has a §102(a) date of January 9, 2003.

Within Applicant's remarks, it is noted that D'Arbeloff et al is commonly assigned to the Assignee of the instant Application. The instant application 10/766,517 was assigned to Paytonix Systems, Inc and recorded on 8/24/2004. D'Arbeloff et al (US 2003/0009382 A1) which has a corresponding Application Number of 10/167,888 was assigned to Paytronix Systems, Inc and recorded on 9/13/2002.

Examiner notes that 35 U.S.C. 103 (c), as amended by the CREATE Act, applies only to subject matter which qualifies as prior art under 35 U.S.C. 102(e), (f), or (g), and which is being relied upon in a rejection under 35 U.S.C. 103. Therefore, Applicant has a valid 103(c) defense only as to the 102(e) priority date of D'Arbeloff et al (US 2003/0009382 A1). See MPEP §706.02(l)(1) Rejections Under 35 U.S.C. 103(a) Using Prior Art Under 35 U.S.C. 102 (e), (f), or (g); Prior Art Disqualification Under 35 U.S.C. 103 (c).

The 102(a) priority date of D'Arbeloff et al (US 2003/0009382 A1) is not overcome by the §103(c) defense. See MPEP §715.01(b) Reference and Application Have Common Assignee. The mere fact that the reference patent or application publication which shows but does not claim certain subject matter and the application which claims it are owned by the same assignee does not avoid the necessity of filing an affidavit or declaration under 37 CFR 1.131, in the absence of a showing under 37 CFR 1.132 that the patentee derived the subject matter relied on from the applicant.

See also MPEP §716.10 which reads under certain circumstances an affidavit or declaration may be submitted which attempts to attribute an activity, a reference or part of a reference to the applicant. If successful, the activity or the reference is no longer applicable. When subject matter, disclosed but not claimed in a patent application filed by S and another, is claimed in a later application filed by S, the joint patent or joint patent application publication is a valid reference available as prior art under 35 U.S.C. 102(a), (e) or (f) unless overcome by affidavit or declaration under 37 CFR 1.131 showing prior invention or an unequivocal declaration by S under 37 CFR 1.132 that he or she conceived or invented the subject matter disclosed in the patent or published application.

The listed inventors for A/N 10/167,888 are Matthew A. D'Arbeloff and Andrew Robbins. The listed inventors for the instant application are Andrew H. Robbins and David Foulser. While common inventors exist between the two applications, namely Andrew Robbins, the affidavit filed was under 37 CFR 1.131, and further Andrew Robbins does not clearly state that he conceived or invented the subject matter disclosed in the patent or published application. Thus, Examiner concludes that Applicant has not attempted to make an attribution as described in MPEP §716.10.

Thus, Examiner looks to the Affidavit filed under Rule 1.131 to determine if it properly antedates the §102(a) date of the D'Arbeloff et al (US 2003/0009382 A1) reference with the required supporting facts as required by 37 CFR 1.131(b).

Supporting facts are required as 37 CFR 1.131(b) requires: "The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application."

Applicant's Affidavit and Exhibits A and B do not provide enough factual support to conclude that Applicant's invention was actually reduced to practice before the §102(a) date of the reference.

Actual reduction to practice occurs when the claimed invention is actually made (e.g., an apparatus is assembled) or performed (e.g., for a method) and seen to be suitable for its intended purpose.

Exhibit A does not factually support actual reduction to practice of the claimed invention. It reads “It seems that there are two major directions in which we can work...It is not clear which one is better...if we don’t want to implement it directly on the PXS...the second method is not very likeable...if a card is not swiped, the code doesn’t allow the server to change the screen. We have to investigate how this can be done using ISL code...one could propose instead...I am not sure how can (sic) this can be done...one more item which needs consideration is how to void the rewards...I think we will have to first decide which method to use to add the products on the card...But we need to do something...Unfortunately this doesn’t seem possible to do for 8700 systems...This feature will need to be tested completely.” Exhibit A alone or taken together with Applicant’s affidavit and Exhibit B do not factually support an actual reduction to practice as Examiner is not convinced that the claimed invention was actually made or performed and seen to be suitable for its intended purpose.

Exhibit B does not support actual reduction to practice either. While “want to be able to buy a gift card for someone with “12 coffees” on it- not a \$ value” is written as a message, this does not factually support actual reduction to practice. Exhibit B alone or taken together with Applicant’s affidavit and Exhibit A do not factually support an actual reduction to practice as Examiner is not convinced that the claimed invention was actually made or performed and seen to be suitable for its intended purpose.

Applicant further does not establish due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application as required by 37 CFR 1.131(b).

Therefore, Applicant's Affidavit filed pursuant to 37 CFR 1.131 does not satisfy the requirements of the rule, thus the D'Arbeloff et al (US 2003/0009382 A1) reference has not been properly antedated.

### **Response to Arguments**

**10.** Applicant contends that Greer fails to disclose "receiving...information indicating that...physical products have been pre-paid" and "receiving...information indicating that a payment specific to...pre-paid physical products has been made." Greer discloses that the meals (physical products) are purchased at the beginning of the school term (pre-paid). Students then during the school term select their meals that were previously purchased. A person of ordinary skill in the art while interpreting the claims with broadest reasonable interpretation understands Greer et al to disclose the above claimed elements. Specific to is taught in that the meal plan is specific to a particular school, time of day, or number of meals purchased.

Applicant contends the Greer fails to teach "receiving, from the first terminal, a unique identifier that is used to identify a physical card." Greer is not relied on to teach this feature. D'Arbeloff discloses these features. It would have been obvious to a person having ordinary skill in the art to combine the teachings of D'Arbeloff with Greer as D'Arbeloff's teachings as outlined in the office action. Applicant has not responded to the office action as presented but relies on the Rule 1.131 affidavit which does not overcome the prior art applied in the office action.

Applicant contends that Greer fails to teach "add...pre-paid physical products to an account associated with the physical card". Greer discloses students adding meal plans with specific numbers of meals and meals are physical products. Applicants arguments that a plan is

an intangible abstraction is not convincing as the students as they add meals to their cards know what physical product that they will be receiving. If they have so many breakfasts, lunches or dinners on their card, these are specific physical products where the students can anticipate what they will be receiving. If you were to follow the applicant's logic, an entrée is an abstract idea, until you know whether the entrée is steak or chicken. Meal may be broad, but it describes a physical product, just like entree.

Applicant contends that Greer fails to disclose "storing the account information in a central database" Greer discloses storing account information within the smart card. The smart card itself represents a central database. The database is not specified to be on a computer. Regardless, the system of Greer stores account information such as whether the card is void or expired. Additionally, the computer is capable of transferring the data to the smart card containing information regarding a meal plan, thus it is at least momentarily stored in the computer. Additionally, the computer is loaded with the administration software for configuration, hot list updating and transaction collection.

Applicant contends that Greer fails to teach "verifying...that the unique identifier received with the request matches the unique identifier used to identify the physical card, and that the prepaid product in the request matches...prepaid products in the account" Greer discloses querying the card to determine which prepaid meals are available. Additionally Greer is not relied on to disclose matching unique identifiers as this is disclosed by D'Arbeloff. When the card is presented for a meal, the request, the account is queried and verified as to whether or not the card has sufficient meals on the card to meet the request. Even still, Greer probably discloses a unique identifier because cards are identified as being on the hotlist or not.

Applicant contends there is no central server. Greer discloses a central administrative computer as well as other computers and point of sale terminals that communicate with the central computer because the reference discloses that if a student were to lose a card, that card is placed on the hotlist. The central computer keeps track of such information and sends it to the various point of sale terminals. Also, the central computer is responsible for placing the information on the smart card.

Applicant contends that stock keeping units are not taught. As disclosed in the office action, they are. SKU's are not novel and it would have been obvious to make such a combination.

Applicant contends signals are not disclosed. Upon the reading of the references relied on, one with ordinary skill in the art understands that signals are sent by terminals. A hotlist is maintained.

Greer discloses the pre-purchasing of meals, physical products. The interaction of the computers, the signals sent, the cards used are all well known in the art of transaction processing and in stored value cards. Examiner has provided additional references in the cited not relied on section to show that this concept is not novel.

The features included in Applicant's claims are not novel and are obvious in light of the prior art. Applicant makes various arguments regarding the references and the claimed elements. Examiner construes the claims with broadest reasonable interpretation.

Applicant has not invented the computer or a new method of using computer architecture. Applicant has not invented the stored value card and reward systems. Applicant has not invented transaction processing. To store information on a card is not a novel concept either. If

Applicant's invention is what type of information gets stored on the card, this is intended use/field of use. Even still, it is well known to store pre-purchased products on a card for later redemption. Examiner strongly encourages Applicant to review the entirety of the references presented in the office action above as well as those cited not relied on below.

### *Conclusion*

*II.* Under the final action practice for Office actions following a submission under 37 CFR 1.129(a) filed on or after June 8, 2005, the next Office action following timely filing of a submission under 37 CFR 1.129(a) will be equivalent to the next Office action following a reply to a non-final Office action. Under existing Office second action final practice, such an Office action on the merits will be made final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a).

In this Office action, there is no new ground of rejection that was not necessitated by applicant's amendment of the claims or based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period



will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Gotfried (US 2002/0143697 A1)** discloses a method and apparatus for transferring a credit in which attaches a gift card to a greeting card. The gift card includes indicia for encoding a gift credit. The indicia for encoding a gift credit can be by any suitable form, but preferably is in the form of magnetic coding on a magnetic strip. The magnetic strip can be coded by methods known in the art with information about the credit. This information can be the monetary amount of the credit, **or the goods or services that can be purchased with the credit** and the stores or locations where the credit can be used. Additionally, the disclosure of Gotfried is readily adaptable to internet-based transactions. The giver purchases the credit either at a store or through an internet based consumer transaction (pre-paid). The greeting card is provided with certain indicia. The giver purchases either a certain monetary amount of credit for the recipient which are identified by the indicia. Upon receipt of the greeting card, the recipient either brings the greeting card and/or gift card to the store or enters the indicia directly through an **internet based transaction**. In either event, the indicia is used to recall from computer memory the monetary amount or particular goods and services represented by the indicia which were purchased by the giver for the recipient. The recipient can then purchase goods and services

with the monetary amount of the credit, or **can purchase the particular goods and services that are specified by the credit.**

**Rankin et al (US 2004/0059633 A1)** discloses a dining system in which enables students in the vicinity of a campus to dine at a variety of dining establishments located on- or off-campus, using account reconciliation to transfer funds to the dining establishments based upon use. Students and their parents have 24 hour web access to their accounts, which may be reviewed for accuracy and to make sure the account is appropriately used. The parent may also be able to limit which dining establishments are available to the student and at what time of the day.

**Cohen (US 2003/0097331A1)** discloses Systems for Financial and Electronic Commerce in which a customized credit card could be issued to the user which is only valid for use for that particular type of charge and to the credit limit decided by the issuer or authorizing party at the corporation, such that if the employee tries to use it for anything else or for a charge in excess of that authorized, the charge will be declined. The card could even be customized for use in a particular store itself or a particular chain of stores (such as a particular restaurant, or a particular chain of restaurants). As another example, a parent could give a teenage child a card to go out and make a specific purchase for the child or for the parent. The card could be valid only for purchase on that particular day, to a certain designated purchase limit, and even, if desired only in a certain store, or group of stores or types of stores (clothing stores) or **types of purchases or items.**

**Singhal (US 2002/0095380 A1)** discloses a Method and Apparatus for Restaurant Payment System for the restaurant industry that facilitates efficient payment using a bankcard for

a meal in a restaurant and also without providing personal sensitive data from bankcards to employees/waiters of the restaurant.

**Walker et al (US 2008/0052189 A1)** discloses a Purchasing, Redemption, and Settlement Systems and Methods wherein a Buyer takes Possession at a retailer of a product purchased using a communication network. The purchasing system may communicate with a buyer through a communication network to establish a first price for a product between the buyer and a seller. The purchasing system may also arrange for the buyer to take possession of the product at the retailer, different from the seller, that offers the product for sale at a second price.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL STIBLEY whose telephone number is (571) 270-3612. The examiner can normally be reached on Mon. - Fri. 9 a.m.-5 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LYNDIA JASMIN can be reached on 571-272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/M. S./  
Examiner, Art Unit 3688

/Lynda Jasmin/  
Supervisory Patent Examiner, Art Unit 3688